

### REMARKS

This is in response to the Office Action of July 3, 2003, which rejected claims 1-5 as unpatentable under 35 U.S.C. 102(b) in view of U.S. Patent No. 6,071,281 to *Burnside*.

As previously noted in other related application, the structure shown in *Burnside* Figures 78 et seq. is for isolating the atrial appendage by clamping and sealing the appendage walls together. The *Burnside* patent discloses an entirely different structure for forming non-conductive lines of ablation as in the MAZE procedure - see, for example, Figures 1-40 of *Burnside* -- a structure completely unlike that claimed in the pending claims.

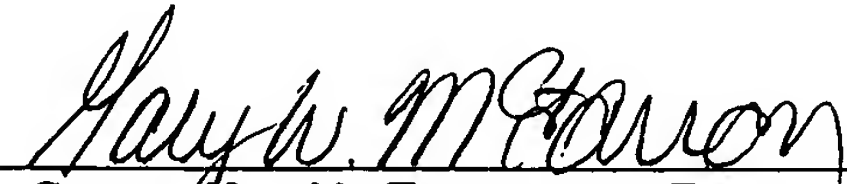
In addition to these fundamental differences between the structure and function in *Burnside* and the claimed subject matter each pending independent claim has been amended to point out that at least portions of the jaws are parallel through a range of clamping spacing. Examples of such motion are shown in Figures 1, 7, 20, 30-31, 34 and other figures of the pending application. This allows the electrodes carried on such jaw portions to be uniformly spaced apart during a range of clamping positions when the jaws are engaging and compressing tissue. This feature is not described or suggested in the *Burnside* patent, either alone or in combination with the other claimed subject matter, and the amended the claimed subject is not anticipated by and would not have been obvious to a person of ordinary skill in view of *Burnside*.

For all of the above reasons, it is respectfully requested  
that the pending claims, as amended, be reconsidered and allowed.

Respectfully submitted,

Date: October 1, 2003

By:



Gary W. McFarron, Esq.  
Registration No. 27,357  
Cook, Alex, McFarron, Manzo,  
Cummings & Mehler, Ltd.  
200 West Adams St., Suite 2850  
Chicago, IL 60606  
Telephone: (312) 236-8500

Attorneys for Applicant